



CONFERENCE COMMITTEE REPORT DIGEST FOR ESB 523

Citations Affected: IC 33-34.

Synopsis: Marion County small claims courts. Makes the township small claims courts in Marion County courts of record as of July 1, 2018. Permits a part-time small claims court to become a full-time court on January 1, 2016, by submitting to the township board a notice of intent to become a full-time court, approved by the township trustee, before August 1, 2015. Makes all small claims courts full-time courts after December 31, 2016. Provides that a court which was a full-time court on January 1, 2015, will remain a full-time court. Sets the annual salary of a full-time small claims court judge at 75% of the salary of a Marion County circuit court judge. Provides that the judge of a small claims court has the authority to employ staff, and that staff serve at the pleasure of the judge. Increases the jurisdictional amount to \$8,000. Requires the courts to use a centralized case management system approved by the division of state court administration. Defines "low caseload court" and requires certain fees to be transferred to low caseload courts. Requires the judge of a low caseload court to identify five days during each month in which the judge will be available to assist the other judges with their judicial duties, and establishes a process by which the small claims presiding judge may assign the judge of a low caseload court to assist other judges. **(This conference committee report: Provides that a court which was a full-time court on January 1, 2015, remains a full-time court. Moves the date on which all courts become full-time courts from July 1, 2018, to January 1, 2017. Permits a part-time small claims court to become a full-time court on January 1, 2016, by submitting to the township board a notice of intent to become a full-time court, approved by the township trustee, before August 1, 2015. Removes the increase in the jurisdictional amount to \$10,000. Requires the courts to use a centralized case management system approved by the division of state court administration. Specifies that whether a court is a low caseload court will be determined based on the number of new filings in the court, and specifies that for the period before January 1, 2016, the two courts with the lowest number of new filings between January 1, 2015, and May 1, 2015, are low caseload courts. Provides that the judge of a small claims court has the authority to employ staff, and that staff serve at the pleasure of the judge. Sets the annual salary of a full-time small claims court judge at 75% of the salary of a Marion County circuit court judge.**



Requires the judge of a low caseload court to identify five days during each month in which the judge will be available to assist the other judges with their judicial duties, and establishes a process by which the small claims presiding judge may assign the judge of a low caseload court to assist other judges.)

Effective: Upon passage; July 1, 2015.



CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill No. 523 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 33-34-1-3 IS AMENDED TO READ AS
- 3 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 3. **(a) This subsection**
- 4 **applies before July 1, 2018.** The small claims court is not a court of
- 5 record. **A person who wishes to appeal the judgment of a small**
- 6 **claims court entered before July 1, 2018, shall appeal the case to**
- 7 **the circuit or superior court under IC 33-34-3-15.**
- 8 **(b) This subsection applies after June 30, 2018. The small claims**
- 9 **court is a court of record. A person who wishes to appeal the**
- 10 **judgment of a small claims court entered after June 30, 2018, shall**
- 11 **appeal the case to the court of appeals in accordance with**
- 12 **IC 33-34-3-15.1.**
- 13 **(c) This subsection applies after June 30, 2018. Notwithstanding**
- 14 **any other law, the elected constable shall continue to serve the**
- 15 **court's personal service of process even after the court becomes a**
- 16 **court of record.**
- 17 SECTION 2. IC 33-34-1-6 IS AMENDED TO READ AS
- 18 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 6. ~~A division of the~~
- 19 ~~small claims court must be a full-time division or a part-time division~~
- 20 ~~as determined by the individual township boards following a hearing~~
- 21 ~~conducted under section 7 of this chapter.~~

(a) This subsection applies before January 1, 2017. A part-time court may become a full-time court by submitting a notice of intent to become a full-time court to the township board before August 1, 2015. The notice of intent must be signed by the township trustee and the judge of the court. A part-time court may not become a full-time court under this subsection without the approval of the township trustee. A part-time court that complies with this subsection becomes a full-time court on January 1, 2016. This subsection expires January 1, 2017.

(b) A small claims court that was a full-time small claims court on January 1, 2015, remains a full-time court.

(c) This subsection applies after December 31, 2016. Every small claims court must be a full-time court.

SECTION 3. IC 33-34-1-7, AS AMENDED BY P.L.174-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 7. A hearing must be conducted to obtain evidence, opinions, advice, and suggestions from public officials and the general public concerning:

(1) whether a small claims court should be established or abolished in the township, if the township has a population of less than fifteen thousand (15,000) persons;

~~(2) whether the small claims court should be full time or part time;~~

~~(3)~~ (2) the location of the small claims court courtroom and offices; and

~~(4)~~ (3) other relevant matters.

SECTION 4. IC 33-34-1-9, AS AMENDED BY P.L.174-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 9. Not more than two (2) weeks after a hearing is conducted under section 7 of this chapter, the township board shall, after considering the evidence, opinions, advice, and suggestions presented at the hearing, enter an order concerning:

(1) whether a small claims court shall be established or abolished in the township if the township has a population of less than fifteen thousand (15,000) persons;

~~(2) whether the small claims court if any, shall function full time or part time;~~

~~(3)~~ (2) the location of the small claims court courtroom and offices under IC 33-34-6-1; and

~~(4)~~ (3) other relevant matters.

SECTION 5. IC 33-34-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The annual salary of a judge who serves is the judge of a full-time court must be in an amount determined by the township board of the township in which the small claims court is located: is equal to seventy-five percent (75%) of the minimum salary paid by the state to the Marion County circuit court judge.

(b) The salary of each judge who serves part time must be in an amount determined by the township board and approved by the city-county council. This subsection expires January 1, 2017.

(c) The salary of a judge may not be reduced during the judge's term

of office.

(d) At any other time, salaries of any ~~full-time or~~ part-time judge may be increased or decreased by the township board of the township in which the small claims court is located. **This subsection expires January 1, 2017.**

SECTION 6. IC 33-34-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) A judge serving part-time may participate in other gainful employment if the employment does not:

- (1) interfere with the exercise of the judge's judicial office; or
- (2) involve any conflict of interest in the performance of the judge's judicial duties.

This subsection expires January 1, 2017.

(b) A judge serving full time: ~~may practice law if the practice does not conflict in any way with the judge's official duties and does not:~~

- (1) ~~cause the judge to be unduly absent from the court; or shall devote full time to judicial duties; and~~
- (2) ~~interfere with the ready and prompt disposal of the judge's judicial duties. may not engage in the practice of law.~~

SECTION 7. IC 33-34-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2. The court has original and concurrent jurisdiction with the circuit and superior courts in all civil cases founded on contract or tort in which the debt or damage claimed does not exceed ~~six thousand dollars (\$6,000); eight thousand dollars (\$8,000)~~, not including interest or attorney's fees.

SECTION 8. IC 33-34-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 3. The court has original and concurrent jurisdiction with the circuit and superior courts in possessory actions between landlord and tenant in which the past due rent at the time of filing does not exceed ~~six thousand dollars (\$6,000); eight thousand dollars (\$8,000)~~. The court also has original and concurrent jurisdiction with the circuit and superior courts in actions for the possession of property where the value of the property sought to be recovered does not exceed ~~six thousand dollars (\$6,000); eight thousand dollars (\$8,000)~~. These jurisdictional limitations are not affected by interest and attorney's fees.

SECTION 9. IC 33-34-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) The judge of the circuit court, assisted by the judges of the small claims court, shall make and adopt uniform rules for conducting the business of the small claims court:

- (1) according to a simplified procedure; and
- (2) in the spirit of sections 7 and 9 of this chapter.

(b) The judge of the circuit court, assisted by the judges of the small claims court, shall make and adopt uniform rules for practice and procedure in the small claims courts.

SECTION 10. IC 33-34-3-15, AS AMENDED BY P.L.201-2011, SECTION 99, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) **This section applies only to a judgment of the small claims court entered before July 1, 2018.**

(b) All appeals from judgments of the small claims court shall be taken to the circuit court or superior court of the county and tried de novo.

~~(b)~~ (c) The rules of procedure for appeals must be in accordance with the rules established by the circuit court and superior court.

~~(c)~~ (d) The appellant shall pay all costs necessary for the filing of the case in the circuit court or superior court, as if the appeal were a case that had been filed initially in that court.

SECTION 11. IC 33-34-3-15.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 15.1. (a) This section applies only to a judgment of the small claims court entered after June 30, 2018.**

(b) All appeals from judgments of the small claims court shall be taken to the court of appeals in the same manner as a judgment from a circuit or superior court.

SECTION 12. IC 33-34-5-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 7. (a) Before the first day of each month, the judge of a low caseload court (as defined in IC 33-34-8-5 and IC 33-34-8-5.1) shall identify to the presiding judge of the small claims courts five (5) days during the month in which the judge of the low caseload court will be available to assist the judges of the other small claims courts with their judicial duties.**

(b) Upon request of the judge of a court that is not a low caseload court, the presiding judge may assign the judge of a low caseload court to assist the judge of the other court with the judge's judicial duties during one (1) or more of the five (5) days that the judge of the low caseload court has indicated that he or she will be available.

(c) The judge of a low caseload court shall comply with an assignment made by the presiding judge under this section.

(d) At the time the presiding judge makes an assignment under this section, the presiding judge shall inform the circuit court judge in writing of the assignment. The circuit court judge has the authority to enforce the presiding judge's assignment under this section.

SECTION 13. IC 33-34-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 3. (a) Each township shall provide an appropriate and competitive salary of at least five thousand six hundred dollars (\$5,600) for the number of clerks for the small claims court sufficient to:**

(1) operate efficiently; and

(2) adequately serve the citizens doing business with the court.

(b) The clerks of a small claims court:

(1) shall be appointed by the judge; and

(2) serve at the pleasure of the judge.

SECTION 14. IC 33-34-7-4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 4. (a) The small claims courts shall use a centralized case management system approved by the division of**

1 state court administration.

2 (b) The judge of a small claims court is responsible for:

3 (1) preparing and submitting the court's budget to the
4 township advisory board; and

5 (2) after the budget has been approved by the township
6 advisory board, managing the budget of the small claims
7 court.

8 SECTION 15. IC 33-34-8-3, AS AMENDED BY P.L.136-2012,
9 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
10 JULY 1, 2015]: Sec. 3. (a) Payment for all costs made as a result of
11 proceedings in a small claims court shall be to the _____ Township
12 of Marion County Small Claims Court (with the name of the township
13 inserted). The court shall issue a receipt for all money received on a
14 form numbered serially in duplicate.

15 (b) This subsection applies only to a low caseload court (as
16 defined in sections 5 and 5.1 of this chapter). All township docket
17 fees and late fees received by the court shall be paid to the township
18 trustee at the close of each month.

19 (c) This subsection does not apply to a low caseload court. This
20 subsection applies to all other township small claims courts in
21 Marion County. One dollar and fifty cents (\$1.50) of the township
22 docket fee shall be paid to the township trustee of each low
23 caseload court at the end of each month. The remaining township
24 docket fees and late fees received by the court shall be paid to the
25 township trustee at the close of each month.

26 ~~(b)~~ (d) The court shall:

27 (1) semiannually distribute to the auditor of state:

28 (A) all automated record keeping fees (IC 33-37-5-21)
29 received by the court for deposit in the homeowner protection
30 unit account established by IC 4-6-12-9 and the state user fee
31 fund established under IC 33-37-9;

32 (B) all public defense administration fees collected by the
33 court under IC 33-37-5-21.2 for deposit in the state general
34 fund;

35 (C) sixty percent (60%) of all court administration fees
36 collected by the court under IC 33-37-5-27 for deposit in the
37 state general fund;

38 (D) all judicial insurance adjustment fees collected by the
39 court under IC 33-37-5-25 for deposit in the judicial branch
40 insurance adjustment account established by IC 33-38-5-8.2;

41 (E) seventy-five percent (75%) of all judicial salaries fees
42 collected by the court under IC 33-37-5-26 for deposit in the
43 state general fund; and

44 (F) one hundred percent (100%) of the pro bono legal services
45 fees collected before July 1, 2017, by the court under
46 IC 33-37-5-31; and

47 (2) distribute monthly to the county auditor all document storage
48 fees received by the court.

49 The remaining twenty-five percent (25%) of the judicial salaries fees
50 described in subdivision (1)(E) shall be deposited monthly in the
51 township general fund of the township in which the court is located.

The county auditor shall deposit fees distributed under subdivision (2) into the clerk's record perpetuation fund under IC 33-37-5-2.

~~(c)~~ **(e)** The court semiannually shall pay to the township trustee of the township in which the court is located the remaining forty percent (40%) of the court administration fees described under subsection ~~(b)(1)(C)~~ **(d)(1)(C)** to fund the operations of the small claims court in the trustee's township.

SECTION 16. IC 33-34-8-5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 5. (a) This section applies after December 31, 2015.**

(b) As used in this section, "low caseload court" means, for a calendar year, a court that, in the preceding calendar year:

(1) had less than four thousand (4,000) new filings; and

(2) was one (1) of the two (2) courts with the lowest number of new filings.

(c) Before January 1 of each year, the circuit court judge shall determine whether a court is a low caseload court.

(d) If the circuit court judge determines that one (1) or more courts is a low caseload court, the circuit court judge shall certify these courts as low caseload courts and notify the clerk of each township small claims court. Not more than two (2) courts may be certified as low caseload courts.

SECTION 17. IC 33-34-8-5.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 5.1. (a) This section applies before January 1, 2016.**

(b) As used in this section, "low caseload court" means, before January 1, 2016, the two (2) courts that, after December 31, 2014, and before May 1, 2015, had the lowest number of new filings.

(c) Before July 1, 2015, the circuit court judge shall determine, for the period beginning after December 31, 2014, and before May 1, 2015, which two (2) courts are low caseload courts.

(d) After the circuit court judge determines which two (2) courts are low caseload courts, the circuit court judge shall certify these courts as low caseload courts and notify the clerk of each township small claims court. Not more than two (2) courts may be low caseload courts.

(e) This section expires January 1, 2016.

SECTION 18. **An emergency is declared for this act.**

(Reference is to ESB 523 as reprinted April 15, 2015.)

Conference Committee Report
on
Engrossed Senate Bill 523

Signed by:

Senator Young R Michael
Chairperson

Representative Frizzell

Senator Breaux

Representative Pryor

Senate Conferees

House Conferees